

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 15,977
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals the closure by the Department of Social Welfare of his Medicaid benefits and the denial of his application for Vermont Health Access Program (VHAP) medical benefits. The issue is whether the petitioner is categorically eligible for Medicaid and whether his income is in excess of the VHAP program maximum. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner is a married man who has gross income from employment of \$1,500 a month. His wife is disabled and receives SSI of \$198 a month. Prior to May, 1999, the Department notified the petitioner that he was no longer eligible for Medicaid because his daughter had turned 18 and had moved out of the house. There are no other minor children in the household. At this time the petitioner filed an application for VHAP benefits, a program that does not require recipients to be disabled or have minor children in the household.

2. In May, 1999, the Department denied his application for VHAP when it determined his countable monthly income to be \$1,410, which placed him over the

protected income level of \$1,007 for one person.

3. Although the petitioner works and is not disabled, he has high recurring medical and pharmaceutical expenses due to a chronic medical condition. He does not dispute the Department's calculation of his income, but he takes issue with the lack of a provision in the VHAP regulations for a deduction from his income for his high medical expenses.

ORDER

The Department's decisions is affirmed.

REASONS

Eligibility for Medicaid for persons between the ages of 21 and 65 requires that they be either disabled or responsible for the care of a needy child. Medicaid Manual §§ M200 and M300. The petitioner does not dispute that he does not meet these criteria for "categorical" eligibility for Medicaid.

VHAP is essentially a means-tested program. Under the VHAP regulations gross earnings from employment and unearned income are considered in determining eligibility, and the only deductions allowed are for self-employment business expenses, a standard employment expense, and dependent care expenses. W.A.M. § 4001.81(c). The petitioner is not self-employed and he has no children. Therefore, the only deduction for him allowed in the regulations is the standard

employment expense of \$90. Id. § 4001.81(e). This brings the petitioner's countable income to \$1,410 a month.

Under the current regulations (see W.A.M. § 4001.84) the maximum allowable income for one person under VHAP is \$1,007 a month. Procedures Manual § 2420B.¹

Unlike the Medicaid program, there is no provision in VHAP for a determination of "applied income" or a "spenddown", by which the incurring of a predetermined amount of excess medical expenses within a six-month period can trigger eligibility at that point. The petitioner, who has high medical expenses and is not too far over the income maximum, would certainly benefit from such a provision. At present, however, there is no provision in the VHAP regulations for the consideration of medical expenses as a deduction from gross income.²

Inasmuch as the Department's determination in this case is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No.

¹The maximum under VHAP for a two person household is \$1,357. The petitioner's and his wife's combined income is well over this amount also. However, because the petitioner's wife is on SSI, she is allowed to have her income counted separately in determining her Medicaid eligibility. Counting the petitioner's income separately from his wife's is of substantial benefit to the household because his wife qualifies for Medicaid without a spenddown.

²At the hearing, held on June 16, 1999, the petitioner was advised of his potential eligibility for general assistance (GA) if he is ever without the means to obtain necessary medical or pharmaceutical services.

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